

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

13	BERTHA RUIZ,	)	
14		)	
15	Petitioner,	)	No. C 06-0775 CRB (PR)
16	vs.	)	ORDER TO SHOW CAUSE
17	GUILLERMINA HALL, Warden,	)	(Doc # 2)
18	Respondent.	)	
	_____	)	

Petitioner, a state prisoner incarcerated at the California Rehabilitation Center in Norco, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. She also moves for appointment of counsel under 18 U.S.C. § 3006A(a)(2)(B).

**BACKGROUND**

Petitioner was convicted by a jury in the Superior Court of the State of California in and for the County of Santa Clara of multiple drug offenses. The jury also found true various enhancement allegations. On August 17, 2000, petitioner was sentenced to four years, three months in state prison.



1 petitions for writs of habeas corpus liberally).

2 C. Motion for Appointment of Counsel

3 Petitioner's motion for appointment of counsel (doc # 2) is DENIED  
 4 without prejudice. See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986)  
 5 (unless an evidentiary hearing is required, the decision to appoint counsel in  
 6 habeas corpus proceedings is within the discretion of the district court).  
 7 Petitioner clearly presented her claims for relief in the petition and an order to  
 8 show cause is issuing. Accord Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir.  
 9 1984) (although petitioner had no background in law, denial of appointment of  
 10 counsel within discretion of district court where petitioner clearly presented  
 11 issues in petition and accompanying memorandum). The court will appoint  
 12 counsel on its own motion if a evidentiary hearing is later required. See  
 13 Knaubert, 791 F.2d at 728 (appointment of counsel mandatory if evidentiary  
 14 hearing is required).

15 **CONCLUSION**

16 For the foregoing reasons and for good cause shown,

17 1. The clerk shall serve by certified mail a copy of this order and the  
 18 petition and all attachments thereto on respondent and respondent's attorney, the  
 19 Attorney General of the State of California. The clerk also shall serve a copy of  
 20 this order on petitioner.

21 2. Respondent shall file with the court and serve on petitioner, within  
 22 60 days of the issuance of this order, an answer conforming in all respects to Rule  
 23 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of  
 24 habeas corpus should not be granted. Respondent shall file with the answer and  
 25 serve on petitioner a copy of all portions of the state trial record that have been  
 26 transcribed previously and that are relevant to a determination of the issues  
 27  
 28

1 presented by the petition.

2 If petitioner wishes to respond to the answer, he shall do so by filing a  
3 traverse with the court and serving it on respondent within 30 days of his receipt  
4 of the answer.

5 3. Respondent may file a motion to dismiss on procedural grounds in  
6 lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the  
7 Rules Governing Section 2254 Cases. If respondent files such a motion,  
8 petitioner shall file with the court and serve on respondent an opposition or  
9 statement of non-opposition within 30 days of receipt of the motion, and  
10 respondent shall file with the court and serve on petitioner a reply within 15 days  
11 of receipt of any opposition.

12 4. Petitioner is reminded that all communications with the court must  
13 be served on respondent by mailing a true copy of the document to respondent's  
14 counsel. Petitioner must also keep the court and all parties informed of any  
15 change of address.

16 SO ORDERED.

17 DATED: June 2, 2006



18 CHARLES R. BREYER  
19 United States District Judge  
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